

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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LEONARDO MORALES,

Plaintiff,

-against-

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

-----x
MEMORANDUM AND ORDER
Case No. 18-CV-6906-FB

Appearances:

For the Plaintiff:

EDDY PIERRE PIERRE
Pierre Pierre Law, P.C.
211 East 43rd Street, Suite 608
New York, New York 10017

For the Defendant:

ARTHUR SWERDLOFF
Assistant United States Attorney
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201

BLOCK, Senior District Judge:

The Court previously awarded plaintiff's counsel \$21,741.50 in attorneys' fees, finding that a higher award would constitute a windfall. Plaintiff appealed.

While the appeal was pending, the Second Circuit decided *Fields v. Kijakazi*, 24 F.4th 845 (2d Cir. 2022), which held that a high effective hourly rate, standing alone, does not constitute a windfall. *See id.* at 854. The parties stipulated to a remand for reconsideration in light of *Fields*.

Having considered the appropriate factors—(1) the ability and expertise of the

attorney(s); (2) the nature and length of the relationship counsel had with the claimant; (3) the claimant's satisfaction with the services provided by counsel; and (4) the uncertainty of an award of benefits, *see id.* at 854-856—without regard to the resulting effective hourly rate, the Court finds that an award of 25% of plaintiff's past benefits would not constitute a windfall.

Accordingly, the Commissioner is ordered to disburse to plaintiff's counsel the \$35,829.25 currently withheld from plaintiff's past benefits. Upon receipt, plaintiff's counsel shall remit to plaintiff the \$7,902.12 previously awarded pursuant to the Equal Access to Justice Act.

SO ORDERED.

/S/ Frederic Block
FREDERIC BLOCK
Senior United States District Judge

Brooklyn, New York
February 3, 2023